092762 Report Div.

UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D C 20548

CIVIL DIVISION

JAN 6 1969

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Dear Mr. Werts:

On the basis of our review of procedures followed by the Bureau of Employees' Compensation (Bureau), Department of Labor, in compensating injured Federal employees of the Brooklyn, New York, Post Office, we have found that overpayments are being made and underpayments could also be made to individual employees where the employees do not work the standard Monday to Friday workweek.

We reviewed payments made by the Bureau in 12 compensation cases which we selected on the basis that they involved a workweek other than the standard Monday to Friday workweek. Included among the 12 cases we reviewed were: one case submitted by a Brooklyn Post Office employee as an employee's suggestion for eliminating dual compensation payments by the Bureau to injured Federal employees; eight cases which were submitted by the Brooklyn Postmaster to the Bureau to add support to the employee's suggestion; and three cases selected by us.

Our review showed that in nine of these 12 cases, the injured postal employees received overpayments of compensation for days on which they were not scheduled to work during the first week of their disability. One of these employees also received excess compensation during the last week of his disablement. On the basis of our review, we believe that, nationwide, a substantial number of injured Federal employees may be receiving similar overpayments of compensation. We noted also that the Bureau's present procedures can result in underpayments of compensation to injured employees during the last week of their disablement under certain circumstances.

Section 12 of the Federal Employees' Compensation Act (5 U.S.C. 8114) states that an injured employee may be paid compensation for such days as he would have worked but for the injury. A three-day waiting period is required before benefits accrue if the claimant's injury disables him for 21 calendar days or less. Certain employees of the Brooklyn Post Office have a workweek starting on Saturday, whereas the Bureau uses Monday to Friday as the basic workweek to compensate all injured Federal employees. Thus, an injured employee whose tour of duty includes Saturday and/or Sunday and whose days off fall in the Monday to Friday period could receive one or two days of extra compensation during the first week of his disablement. Similarly, such an employee may also be undercompensated during the last week of his disablement, depending upon when he returns to work.

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Following are three specific examples of overpayments made by the Bureau in the cases that we reviewed.

Hyman Rosenfeld (Bureau claim No. A2-168133)

Mr. Rosenfeld's basic 5-day workweek at the time of his injury was Saturday through Friday with days off on Sunday and Wednesday. Mr. Rosenfeld was injured on a Monday, March 13, 1967, and returned to work on a Saturday, April 8, 1967. He received 2 days pay from the Post Office for Saturday and Monday and 4 days compensation (Tuesday through Friday) from the Bureau for the first week he was injured. Thus, he received, in effect, 6 days pay for a 5-day workweek, an overpayment in compensation of 1 day. Because he returned to work on a Saturday, the beginning of his normal workweek, there was no over-or underpayment for the week in which he returned to work.

Lunda Daye (Bureau claim No. A2-168430)

This employee's basic 5-day workweek at the time of his injury was Saturday through Friday with days off on Sunday and Wednesday. Mr. Daye was injured on a Tuesday, March 14, 1967, and returned to work on a Thursday, April 6, 1967. He received 3 days pay for Saturday, Monday and Tuesday from the Post Office and 3 days compensation (Wednesday through Friday) from the Bureau for the first week he was injured. Thus, he received an overpayment in compensation of 1 day. Upon returning to work, Mr. Daye's workweek was changed to a Monday through Friday basis with Saturday and Sunday off. Therefore, there was no over-or underpayment for the week he returned to work.

George Marchesano (Bureau claim No. A2-146347)

This employee's basic 5-day workweek at the time of his injury was Saturday through Friday with days off on Thursday and Friday. Mr. Marchesano was injured on a Tuesday, February 1, 1966, and had returned to work on Wednesday, May 24, 1966. He received 5 days pay for Saturday through Wednesday from the Post Office and 2 days compensation (Thursday and Friday) from the Bureau for the first week he was injured. Thus, he received an overpayment in compensation of 2 days.

Upon returning to work, Mr. Marchesano's workweek was changed to a Monday to Friday basis with days off on Saturday and Sunday. We reviewed the employee's time and attendance

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records which showed that he was on leave without pay due to his disabling injury for Monday of this week, took sick leave on Tuesday, and worked his normal 8-hour day for Wednesday, Thursday, and Friday. The Bureau compensated him also for his disability for 5 days of the week in which he returned to work which resulted in an overpayment of 4 days compensation.

We were advised that the Bureau utilizes a Monday to Friday workweek for administrative facility and that it would be impractical for the Bureau to do otherwise because the administrative cost would far exceed any possible savings to the compensation fund. We were advised also that the Bureau is not convinced that its procedures are resulting in substantial overpayments or that they require modification.

In our opinion, the payment of compensation to an employee for days on which he is not scheduled to work is a violation of section 12 of the Federal Employees' Compensation Act.

We believe that in order to correct the present practice which can lead to overpayments and underpayments of compensation, the Bureau should require that, for those employees who have a basic workweek other than Monday to Friday, the employee's basic workweek and days off be shown on the superior's official report of injury (Form CA-2) and that the employing agency inform the Bureau if there is a change in the work schedule when the employee returns to work. With this information, we believe the Bureau could readily avoid over-or underpayment for the first and last week of compensation.

Nationwide, the Post Office Department had over 16,000 disabling injuries in fiscal year 1967. Although our findings pertain only to the Post Office Department and to only one post office such overpayments can also occur in other Government agencies where employees' regularly scheduled workweeks include Saturday and/or Sunday.

A listing identifying nine of the 12 cases which we reviewed and the amount overpaid in each of the nine cases is enclosed for your information. The nine cases we reviewed all involved employees whose injuries disabled them for over 21 days, and thus their compensation was not reduced by operation of the mandatory three-day waiting period that applies to short-term disablements. On the basis of our calculations, however, it appears that overpayments and underpayments are possible in the case of short-term disablements to about the same extent that they are for long-term disablements under present Bureau procedures.

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On the basis of our findings, we recommend that the Director of the Bureau of Employees' Compensation make appropriate changes to its procedures to provide for accurate determinations of compensation to injured Federal employees in accordance with the requirements of the Federal Employees' Compensation Act.

We shall appreciate your views and comments on this matter.

Sincerely yours,

Henry Eschwege

Henry Eschwege
Associate Director

Enclosure

The Honorable Leo R. Werts
Assistant Secretary for Administration
Department of Labor

cc: Mr. Thomas A. Tinsley, Director
Bureau of Employees' Compensation
Department of Labor

Director, CD
Mr. Eschwege
Mr. Neuwirth
Regional Manager, New York
Mr. Woods
Mr. Wielga

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List of Nine Injured Federal Employees Who Received Overpayments From the Bureau of Employees' Compensation

Employee's name	Bureau claim number	Number of days paid by Post Office	Number of days paid by Bureau	Number of days paid by Total	Days overpaid by Bureau	Amount overpaid by Bureau
Hyman Rosenfeld	A2-168133	2	4	6	1	$ 19.95
Henry Salowantschich	A2-165500	2	4	6	1	18.99
Charles E. Gilbert	A2-163627	2	4	6	1	19.95
Lunda Daye	A2-168430	3	3	6	1	18.81
Henry Woytunick	A2-168344	3	3	6	1	19.95
Anthony R Pisani	A2-164072	3	3	6	1	18.99
Charles A. Stith	A2-171300	5/8	5	5-5/8	5/8	9.95
Joseph Benciveng a	A2-161797	1/2	5	5-1/2	1/2	10.49
George Marchesano	A2-146347					
first week		5	2	7	2	
last week		4	5	9	4	103.00
Totals		25-1/8	38	63-1/8	13-1/8	$230.08